

Assembly Bill No. 162

CHAPTER 313

An act to amend Sections 398.2, 398.4, and 398.5 of the Public Utilities Code, relating to electrical suppliers.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 162, Ruskin. Disclosure of sources of electrical generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations.

Existing law establishes a program under which retail suppliers of electricity disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.

This bill would define the term "unspecified sources of power" for purposes of the above-described disclosure requirements to mean electricity generated that is not traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer. The bill would additionally define the term "retail supplier." The bill would also enumerate specific fuel types and energy sources that are required to be disclosed by the retail supplier as a percentage of annual sales. Further, this bill would change reporting requirements from quarterly to annually and amend other details regarding disclosures and eliminate certain reporting requirements.

(2) Under existing law, the governing board of a local publicly owned electric utility, as defined, is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to report certain information relative to renewable energy resources to its customers.

This bill would provide that compliance by a local publicly owned electric utility with the program under which retail suppliers of electricity disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric service, is compliance with the renewables portfolio standard reporting requirements.

The people of the State of California do enact as follows:

SECTION 1. Section 398.2 of the Public Utilities Code is amended to read:

398.2. The definitions set forth in this section shall govern the construction of this article.

(a) “Retail supplier” means an entity that offers an electricity product for sale to retail consumers in California.

(b) “System operator” means the Independent System Operator with responsibility for the efficient use and reliable operation of the transmission grid, as provided by Section 345, or a local publicly owned electric utility that does not utilize the Independent System Operator.

(c) “Specific purchases” means electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to meet this requirement, rather than hour-by-hour matching of loads and resources.

(d) “Unspecified sources of power” means electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer.

SEC. 2. Section 398.4 of the Public Utilities Code is amended to read:

398.4. (a) Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources for the previous calendar year.

(b) The disclosures required by this section shall be made to potential end-use consumers in all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, including the retail supplier’s Internet Web site, if one exists, except that advertisements and notices in general circulation media shall not be subject to this requirement.

(c) The disclosures required by this section shall be made annually to end-use consumers of the offered electricity. The annual disclosure shall be made by the end of the first complete billing cycle for the third quarter of the year, and shall be consistent with information provided to the Energy Commission pursuant to Section 398.5.

(d) The disclosures required by this section shall be made separately for each offering made by the retail supplier.

(e) On or before January 1, 1998, the Energy Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation related.

(g) The disclosures required by this section shall comply with the following:

(1) A retail supplier's disclosure of its electricity sources shall be expressed as a percentage of annual sales derived from each of the following categories:

- (A) Unspecified sources of electricity.
- (B) Specific purchases.

(2) A retail supplier's disclosure of its electricity sources shall also separately identify total California system electricity, which is the sum of all in-state generation and net electricity imports by fuel type.

(h) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from the following fuels or sources of energy:

- (1) Coal.
- (2) Large hydroelectric (greater than 30 megawatts).
- (3) Natural gas.
- (4) Nuclear.

(5) Eligible renewable energy resources pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)), including any of the following:

- (A) Biomass and biowaste.
- (B) Geothermal.
- (C) Eligible hydroelectric.
- (D) Solar.
- (E) Wind.

(6) Other categories as determined by the Energy Commission.

(i) All electricity sources disclosed as specific purchases shall meet the requirements of subdivision (c) of Section 398.2.

(j) Specific purchases identified pursuant to this section shall be from sources connected to the Western Electricity Coordinating Council interconnected grid.

(k) Compliance with this section by a local publicly owned electric utility shall constitute compliance with paragraph (2) of subdivision (b) of Section 387.

(l) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

SEC. 3. Section 398.5 of the Public Utilities Code is amended to read:

398.5. (a) Retail suppliers that disclose specific purchases pursuant to Section 398.4 shall report on June 1, 2009, and annually thereafter, to the Energy Commission, for each electricity offering for the previous calendar year, each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the Energy Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the Energy Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the Energy Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(f) The Energy Commission may verify the veracity of environmental claims made by retail suppliers.